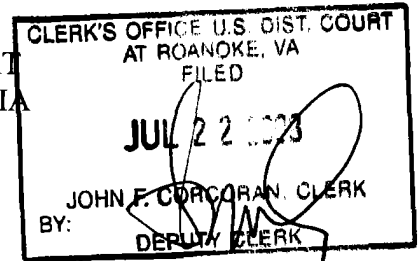


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION



JERRY A. HURST,

Plaintiff,

v.

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY,

Defendant.

Civil Action No. 7:05CV00776

ORDER

By: Hon. Glen E. Conrad
United States District Judge

This matter is before the court on the plaintiff's motion for partial summary judgment, the defendant's motion for summary judgment, and the report and recommendation of United States Magistrate Judge Michael F. Urbanski, which recommended that the plaintiff's motion be denied and the defendant's motion granted. Pursuant to Federal Rule of Civil Procedure 72(b), the parties were advised that they had ten (10) days in which to file any objections to the report and recommendation of the magistrate judge. The deadline for filing such objections has now passed, and no objections have been filed by either party in this matter. Therefore, for the reasons set forth below, the court will deny the plaintiff's motion for partial summary judgment and grant the defendant's motion for summary judgment.

The Federal Magistrates Act provides that a district court "shall make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). On the other hand, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the

recommendation.”” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Accordingly, after a careful review of the record in this case, the court finds that the magistrate judge committed no clear error in making his report and recommendation. Instead, the court finds that the magistrate judge’s findings of fact are supported by the record and that his conclusions of law are consistent with and supported by current case law. Therefore, the court hereby accepts the report and recommendation of Magistrate Judge Urbanski and adopts it as the final decision of this court for all purposes relating to this case.

As a result, it is hereby

ORDERED

as follows:

1. The plaintiff’s motion for partial summary judgment shall be and hereby is DENIED;
2. The defendant’s motion for summary judgment shall be and hereby is GRANTED; and
3. This action shall be and hereby is STRICKEN from the active docket of the court.

The Clerk is directed to send certified copies of this Order to the plaintiff and all counsel of record.

ENTER: This 22nd day of July, 2008.


United States District Judge